

To: Kamke, Sherry[Kamke.Sherry@epa.gov]
Cc: Kenney, Thomas[kenney.thomas@epa.gov]; Siler, Sandy[siler.sandra@epa.gov]; Foskett, William[Foskett.William@epa.gov]; Erickson, Susan (DEQ)[ERICKSONSON@michigan.gov]; Reisner, Bob (DEQ)[REISNERR@michigan.gov]; Eagle, Dennis (DEQ)[EAGLED@michigan.gov]; Shirey, Kathleen (DEQ)[SHIREYK@michigan.gov]; McClellan, Michael (DEQ)[MCCLELLANM1@michigan.gov]; Sygo, Jim (DEQ)[SygoJ@michigan.gov]
From: Wagner, Robert (DEQ)
Sent: Thur 2/12/2015 8:35:56 PM
Subject: RE: MI Senate Bill 791

Hi Sherry,

I was wondering what the status is of your review of Public Act 416 of 2014, amendments to Part 215, with respect to the federal UST financial responsibility requirements? Please let me know if you require any additional information to assist you and I would appreciate if you could provide a date for your response.

Thank you and take care.

Bob

Robert Wagner, Chief

Remediation and Redevelopment Division

Michigan Department of Environmental Quality

OFFICE PHONE NUMBER: 517-284-5166

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From: Wagner, Robert (DEQ)
Sent: Friday, January 16, 2015 2:41 PM
To: 'Kamke, Sherry'
Cc: Kenney, Thomas; Siler, Sandy; Foskett, William; Erickson, Susan (DEQ); Reisner, Bob (DEQ); Eagle, Dennis (DEQ); Shirey, Kathleen (DEQ); McClellan, Michael (DEQ); Sygo, Jim (DEQ)
Subject: RE: MI Senate Bill 791

Hi Sherry,

The Governor signed Senate Bill 791, now known as Public Act 416 of 2014, which amends Part 215 of Public Act 451 and creates the Underground Storage Tank Cleanup Fund (Fund). We are seeking EPA certification of the Fund as to its meeting of the federal UST financial responsibility requirements for owners and operators. To assist you in the review and the determination, I have also attached a cross reference to compare Part 215 and Part 213, Leaking Underground Storage Tank Act and the definitions of "refined petroleum". We would appreciate your review of Part 215 as it relates to these requirements. In order to begin implementation of the new program, it is essential that we receive a timely review and look forward to receiving your comments and/or questions.

With respect an owner/operator that is unable to cover the required deductible and thus would be ineligible to access the Fund, please be assured that funds in the amount of \$20 million annually are appropriated from the Refined Petroleum Fund to the MDEQ to perform corrective actions. MDEQ performs 200-300 site investigations and conducts corrective action to address releases at 200-250 LUST sites annually where the owner/operator is not able to so. MDEQ utilizes a risk based approach to direct funding to perform corrective action the sites that pose the greatest risk to the public health and environment.

Thank you in advance for your assistance and consideration of this request.

Bob

Robert Wagner, Chief

Remediation and Redevelopment Division

Michigan Department of Environmental Quality

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From: Kamke, Sherry [<mailto:Kamke.Sherry@epa.gov>]
Sent: Monday, September 22, 2014 9:20 AM
To: Wagner, Robert (DEQ)
Cc: Kenney, Thomas; Siler, Sandy; Foskett, William
Subject: MI Senate Bill 791
Importance: High

Bob,

Thanks for sending us the draft of the Michigan Senate Bill 791 and the two page summary of its elements. Thanks also for meeting with us by phone on September 16th to discuss our reaction to it.

In summary, our review revealed no apparent show stoppers or “red flag” issues. We did not identify any areas that would prevent us from issuing a letter of acceptability. There are a few provisions that are in the draft legislation that may cause us to qualify our acceptance. Tom Kenney mentioned that this type of qualification has been done before and is not out of the norm. Basically, our acceptability determination would only extend as far as the fund provides coverage. Qualifications depend on the specifics of each state package.

There are some areas that you may want to focus on as your agency develops your package.

- 1) It looks like the state removed some of the substantive definitions from Part 215 and cross-referenced the parallel provision in the Part 213 LUST provisions. It would ease the review process if the cross referenced Sections were included with the final review package. We will need to see them prior to making our final determination on the acceptability of this mechanism.
- 2) The state may need to provide more information to show that the definition of “Refined Petroleum” is consistent with the federal definition.

3) The state will need to provide additional supporting information to provide assurance that if the owner/operate is unable to pay the deductible, or in other situations like "acts of god" that the state will step in to cover that amount as suggested on page 2 of the Bill Summary. This is to ensure "first dollar" coverage exists under this program. .

Our acceptability determination will only extend to the coverage provided. So the letter, once issued, may reference the areas not covered by the state fund including the following:

- 1) Releases prior to the effective date of the bill are not covered.
- 2) Public utilities are not covered so we would have to qualify our acceptability determination to indicate that it doesn't extend to ineligible entities. Sec. 21510(4), page 20.
- 3) Sec. 21510C(G), page 24, had an act of war type exclusion from coverage.

Finally, the legislation covers releases from aboveground piping and dispensers which is more broad than the federal requirements. We may need assurance that claims related to those releases aren't going to cause solvency issues related to releases the federal regulations were intended to cover. Sec. 21510(2), page 19.

Sherry A. Kamke

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